



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,493	12/08/2003	Michael T. Morman	KCX-654A (19124A)	2537
22827 7590 07/31/2008 DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449				
EXAMINER				
CRAIG, PAULA L.				
ART UNIT		PAPER NUMBER		
3761				
MAIL DATE		DELIVERY MODE		
07/31/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/730,493

**Applicant(s)**

MORMAN ET AL.

**Examiner**

PAULA L. CRAIG

**Art Unit**

3761

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 16 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-6, 9, 12, 13 and 15-21.  
Claim(s) withdrawn from consideration: 7, 8, 10, 11, 14 and 22-35.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Tatyana Zalukaeva/  
Supervisory Patent Examiner, Art Unit 3761

Continuation of 11, does NOT place the application in condition for allowance because: Applicant argues that Fig. 2 of Serbiak shows that elastic layer 28 is continuous, and that therefore Serbiak's elastic layer 28 fails to leave a space between the strips. However, Fig. 2 does not represent all the variations disclosed by Serbiak. Serbiak teaches that the elastomeric material of elastic layer 28 may be present in strips (Figs. 1-6, col. 2, lines 42-47, col. 6, lines 24-31, col. 7, lines 11-38, col. 8, lines 26-48, col. 9, lines 18-23, Claims 10, 17, 23, 35). Serbiak teaches that the elastic layer 28 can be disposed where the extensible zones 30-30D are and does not need to extend over the nonextensible area (col. 9, lines 17-23, Claim 10). The extensible zones 30-30D are indicated in the figures of Serbiak by circles, while non-extensible zones are shown by cross hatching and/or absence of circles (Figs. 1, 3, 5, 6, col. 6, lines 24-31, col. 8, lines 26-48). For example, in Fig. 1, a cross-hatched non-extensible area 37 is flanked on either side by extensible zone 30, shown by the circles; as Serbiak clearly teaches that the elastic layer 28 is optional in the non-extensible area, this teaches a space between strips (col. 8, lines 8-48, col. 9, lines 18-23, Claim 10). In Fig. 6, a non-extensible area 46 is flanked on either side by extensible zones 30A and 30C on the left of the figure, and by 30B and 30D on the right of the figure; as Serbiak teaches that the elastic layer is optional in the non-extensible area, this teaches a space between the strips (col. 9, line 18 to col. 10, line 15, Claim 10).

Applicant argues that Serbiak never says that the absorbent core 36 is to be bonded directly to the bodyside liner 24. However, Serbiak teaches that the absorbent core 36 is mounted between the outer cover layer 22 and the bodyside liner layer 24 (col. 6, lines 41-43). Serbiak teaches that the absorbent core 36 is fixedly attached to the base structure 26 to form a nonextensible area 37 (col. 4, lines 38-42, col. 8, lines 17-26, Claims 3, 12, 31). The base structure 26 includes the bodyside liner layer 24 and the outer cover layer 22 (col. 6, lines 10-14, Claim 23). In light of Serbiak's teaching of the absorbent core being mounted between the outer cover and the bodyside liner, and of fixed attachment of the absorbent core to a structure which is described as including the bodyside liner, it would have been obvious to directly bond the absorbent core to the bodyside liner.